

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA

Richmond Division

CLIFFORD MACK,

Plaintiff,

v.

Civil Action No. 3:13-cv-00266-JAG

LOIS YANKAH,

Defendant.

MEMORANDUM ORDER

THIS MATTER is before the Court on the motion for leave to proceed *in forma pauperis* and financial affidavit filed by the defendant, Lois Yankah, on May 3, 2013. (Dk. No. 3.) The Court denied her first motion, which she filed along with a notice of removal, for failure to complete the financial affidavit. Ms. Yankah has now provided a complete affidavit.

The Court hereby GRANTS the motion for leave to proceed *in forma pauperis* and DISMISSES the action. Ms. Yankah's effort to remove this action to federal court suffers from several defects. Most fundamentally, she asserts the Fair Debt Collection Practices Act (FDCPA) as the basis for this court's jurisdiction, but that statute does not provide a defense to state court actions, and she has not properly counterclaimed against the plaintiff for violating the FDCPA. Second, even assuming the defendant had a valid claim under the FDCPA, this case became removable more than thirty days ago under 28 U.S.C. § 1446(b), and removal is therefore untimely. (*See* Dk. No. 1-2 at 5.) Furthermore, the state court action appears to have concluded and become final on April 26, 2013, thus giving Ms. Yankah ten days to file an appeal in state court, but no right to appeal to federal court. *See* Va. Code § 16.1-106. Finally, the

Rooker-Feldman doctrine, which generally prevents the lower federal courts from directly reviewing state court decisions, likely applies to this matter. For these reasons, the Court must dismiss the action for lack of jurisdiction.

It is so ORDERED.

Let the Clerk send a copy of this Order to all counsel of record and Ms. Yankah.

Date: May 3, 2013
Richmond, VA

/s/ Jg./
John A. Gibney, Jr.
United States District Judge